

**77-16a-103 Plea of guilty with a mental illness at the time of the offense.**

- (1) Upon a plea of guilty with a mental illness at the time of the offense being tendered by a defendant to any charge, the court shall hold a hearing within a reasonable time to determine whether the defendant currently has a mental illness.
- (2) The court may order the department to examine the defendant, and may receive the testimony of any public or private expert witness offered by the defendant or the prosecutor. The defendant may be placed in the Utah State Hospital for that examination only upon approval by the executive director.
- (3)
  - (a) A defendant who tenders a plea of guilty with a mental illness at the time of the offense shall be examined first by the trial judge, in compliance with the standards for taking pleas of guilty. The defendant shall be advised that a plea of guilty with a mental illness at the time of the offense is a plea of guilty and not a contingent plea.
  - (b) If the defendant is later found not to have a current mental illness, that plea remains a valid plea of guilty with a mental illness at the time of the offense, and the defendant shall be sentenced as any other offender.
- (4) If the court concludes that the defendant currently has a mental illness, the defendant's plea shall be accepted and the defendant shall be sentenced in accordance with Section 77-16a-104.
- (5)
  - (a) When the offense is a state offense, expenses of examination, observation, and treatment for the defendant shall be paid by the department.
  - (b) Travel expenses shall be paid by the county where prosecution is commenced.
  - (c) Expenses of examination for defendants charged with violation of a municipal or county ordinance shall be paid by the municipality or county that commenced the prosecution.

Amended by Chapter 366, 2011 General Session